

1 who at all material times acted within the course and scope of their agency and employment
2 for Defendant.

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3.

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5 Defendant employed Plaintiff as a Security Specialist from on or about July 11, 2018
6 until on or about January 4, 2019, when it terminated her employment. At the time she was
7 hired, she was hired for a swing-shift position, which she had applied for. Shortly after her
8 hire, she was placed on graveyard shift for what she was told would be a short time period to
9 address staffing issues. Plaintiff requested to be returned to swing shift repeatedly, but
10 Defendant refused.
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14 Prior to Plaintiff's termination she suffered an on-the-job injury to her left arm on or
15 around October 2018, when she slipped and fell. Plaintiff reported her injury to Defendant
16 and filed a workers' compensation claim.

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19 Defendant subjected Plaintiff to unlawful discrimination and/or retaliation in that
20 Defendant terminated Plaintiff in substantial part because she was an injured worker; and/or
21 invoked and/or utilized the procedures of Oregon state workers' compensation laws; and/or
22 had applied for benefits under Oregon state workers' compensation laws.

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25 As a result that discrimination, Plaintiff has suffered and continues to suffer
26 emotional distress all to her non-economic damage in an amount to be proven at trial, which

1 amount is alleged to be \$400,000.

2 7.

3 As a further result of that discrimination, Plaintiff has suffered and continues to suffer
4 economic loss in an amount to be proven at trial, which amount is alleged to be \$150,000.
5

6 8.

7 Defendant acted with malice and/or demonstrated a reckless and outrageous
8 indifference to a highly unreasonable risk of harm and acted with a conscious indifference to
9 the health, safety and welfare of Plaintiff, and Plaintiff reserves the right to allege punitive
10 damages pursuant to ORS 31.725 and 31.730.
11

12 9.

13 Pursuant to ORS 659A.885 and ORS 20.107, Plaintiff is entitled to her reasonable
14 attorney fees, expert witness fees, costs and disbursements.

15 **SECOND CLAIM FOR RELIEF**

16 (Disability Discrimination/Retaliation)

17 10.

18 Plaintiff realleges paragraphs 1 through 9.

19 11.

20 Prior to her termination, Plaintiff notified Defendant that she had Post-Traumatic
21 Stress Disorder (PTSD). Plaintiff's PTSD substantially limited her in one or more major life
22 activities, including, but not limited to, sleeping and concentrating. The symptoms of
23 Plaintiff's PTSD were particularly pronounced around the winter holidays, which Plaintiff
24 disclosed to Defendant. Defendant had notice of said condition and perceived Plaintiff to be
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Page 3 - COMPLAINT

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1 a disabled person on account thereof.

12.

Prior to Plaintiff's termination, Plaintiff requested reasonable accommodation of her disability. These requests for accommodation included but were not limited to, adjustment of her work schedule, returning to swing shift, flex time, and/or assistance with her workload. Defendant failed to provide any accommodations and failed to engage in the interactive process to determine what accommodation could be provided.

13

Defendant discriminated against Plaintiff in one or more of the following ways:

- a) failing to reasonably accommodate her disability;
 - b) failing to engage in the interactive process with Plaintiff to identify a reasonable accommodation;
 - c) retaliating against her for requesting accommodations;
 - d) subjecting her to a hostile work environment, including but not limited to, refusing to return her to swing shift; criticizing her work performance; subjecting her to increased scrutiny; berating her in front of other employees; and commenting negatively about her PTSD and telling her to “leave it at the door”; and/or
 - e) discharging her in substantial part because of her disability, medical history and/or record of having a disability, because it perceived her to be a disabled person, and/or in retaliation for requesting a reasonable accommodation.

THIRD CLAIM FOR RELIEF

(Statutory Whistleblowing - ORS 659A.199)

14.

Plaintiff realleges paragraphs 1 through 13.

15.

Prior to Plaintiff's termination, she reported to Defendant what she believed in good faith to be a violation of state and/or federal laws, rules or regulations, *viz.*, harassment, hostile work environment, retaliation following her work-related injury, and/or retaliation related to her disclosure of her PTSD.

16.

Plaintiff was terminated in substantial part for reporting what she believed in good faith to be evidence of a violation of a state or federal law, rule or regulation, as alleged in paragraph 15.

FOURTH CLAIM FOR RELIEF

(Wrongful Discharge)

17.

Plaintiff realleges paragraphs 1 through 16

18.

Prior to her termination, Plaintiff engaged in an important, employment-related right by complaining about and/or opposing what she believed to be unlawful activity on the part of Defendant.

19.

Defendant terminated Plaintiff in substantial part for exercising her important, employment related rights, as alleged in paragraph 18 above.

FIFTH CLAIM FOR RELIEF

(Age Discrimination/Retaliation - ORS 659A.030)

20.

Plaintiff realleges paragraphs 1 through 19.

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Plaintiff was born in 1958. At the time Defendant terminated her employment she was sixty years old.

22.

Plaintiff was the oldest employee working as a Security Specialist at her employment location.

23.

Plaintiff's age was a substantial factor in her termination and in Defendant's conduct as alleged in paragraphs 3, 5, and 13.

WHEREFORE, Plaintiff prays for judgment as alleged in the claims stated above.

DATED this 19th day of December, 2019.

BUSSE & HUNT

s/ Kirsten Rush

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Page

6 - COMPLAINT

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